United Nations A/68/768–S/2014/124

General Assembly
Security Council

Distr.: General
25 February 2014

Original: English

**General Assembly**
**Sixty-eighth session**
Agenda items 34, 38, 65, 67, 69, 77, 85 and 86

**Protracted conflicts in the GUAM area and their implications for international peace, security and development**

**The situation in the occupied territories of Azerbaijan**

**Promotion and protection of the rights of children**

**Elimination of racism and racial discrimination, xenophobia and related intolerance**

**Promotion and protection of human rights**

**Responsibility of States for internationally wrongful acts**

**The rule of law at the national and international levels**

**The scope and application of the principle of universal jurisdiction**

**Security Council**
**Sixty-ninth year**

## Letter dated 24 February 2014 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

As is known, the ongoing armed conflict between the Republics of Armenia and Azerbaijan began at the end of 1987 with Armenia's overt territorial claims on the Daghlyq Garabagh (Nagorno-Karabakh) autonomous *oblast* of Azerbaijan. Those claims marked the beginning of the assaults on the Azerbaijanis in and their expulsion from both the autonomous *oblast* and Armenia itself. The forcible deportation of more than 200,000 Azerbaijanis from their homes in Armenia was accompanied by killings, torture and other crimes. This is clear evidence of the fact that groundless and unlawful secessionist demands from the very outset were not "peaceful aspirations", as the Armenian propaganda asserts in its futile attempts to mislead the international community, and were aimed at seizing the territories of Azerbaijan by force and creating the ethnically homogenous areas there.

At the end of 1991 and the beginning of 1992, when both former Soviet Union Republics achieved independence, Armenia unleashed full-scale war against Azerbaijan. As a result, a significant part of the territory of Azerbaijan, including



Please recycle

the Daghlyq Garabagh region and seven adjacent districts, was occupied by Armenia. That period was marked by an increase in the magnitude, intensity and consistency of the attacks on Azerbaijani civilians in the Daghlyq Garabagh region and beyond. The war led to the deaths and wounding of thousands of people, while hundreds of thousands became refugees and were forcibly displaced.

Twenty-two years ago, an unprecedented massacre was committed against the Azerbaijani population in the town of Khojaly. Before the conflict, 7,000 people lived in this town of the Daghlyq Garabagh region of Azerbaijan. From October 1991, the town was entirely surrounded by the Armenian forces. During the night of 25 to 26 February 1992, following massive artillery bombardment of Khojaly, the assault on the town began from various directions. The attack and capture of the town, implemented by the Armenian forces, with the direct participation of the infantry guards regiment No. 366 of the former Union of Soviet Socialist Republics, involved the extermination of hundreds of Azerbaijanis, including women, children and the elderly, and thousands of civilians were wounded and taken hostage, while the town was razed to the ground.

There are sufficient grounds to conclude that the Government of the Republic of Armenia and subordinate forces for which it is liable under international law are responsible for serious violations of international humanitarian and human rights law during the conflict, including in Khojaly, which amount to crimes under international law. The violations of the rules of war by the Armenian side include, inter alia, indiscriminate attacks, including the killing of civilians, the taking and holding of hostages, and the mistreatment and summary execution of prisoners of war and hostages. What happened in Khojaly was the largest massacre in the conflict.

In its relevant resolutions adopted in 1993 in response to the illegal use of force against Azerbaijan and occupation of its territories, the Security Council made specific reference to violations of international humanitarian law, including the displacement of a large number of civilians in Azerbaijan, attacks on civilians and the bombardment of inhabited areas. Referring to the reports available from independent sources, the European Court of Human Rights pointed out that "... at the time of the capture of Khojaly on the night of 25 to 26 February 1992 hundreds of civilians of Azerbaijani ethnic origin were reportedly killed, wounded or taken hostage, during their attempt to flee the captured town, by Armenian fighters attacking the town". The Court qualified atrocities committed in Khojaly as "acts of particular gravity which may amount to war crimes or crimes against humanity" (judgment of 22 April 2010, paragraph 87). Based on the results of their inquiries, Human Rights Watch/Helsinki and the Memorial Human Rights Center placed direct responsibility for the civilian deaths with the Armenian forces (available from www.hrw.org/news/1997/03/23/response-armenian-government-letter-townkhojaly-nagorno-karabakh and http://www.memo.ru/hr/hotpoints/karabah/Hojaly/index.htm).

Indeed, the overall assessment of the causes and consequences of the war unleashed by the Republic of Armenia against the Republic of Azerbaijan and all existing facts of the tragic events in Khojaly make it absolutely clear that the crimes committed in that town of Azerbaijan were not an isolated or sporadic act, but were part of Armenia's deliberate, widespread and systematic policy and practice of atrocities, at the core of which are odious ideas of racial superiority, ethnic differentiation, hatred and territorial expansionism. The intentional slaughter of the

civilians in Khojaly was directed at their mass extermination only because they were Azerbaijanis.

The official investigation conducted in Azerbaijan has found that the following elements of the crime of genocide, as defined under international law, are present with regard to the attacks on civilians in Khojaly: the *actus reus* consisting of killing and causing serious bodily or mental harm; the existence of a protected group being targeted by the authors of the criminal conduct; and the specific genocidal intent to annihilate, in whole or in part, a group distinguished on racial, ethnic, national or religious grounds. According to the findings of the investigation, the following requirements are met for the purpose of sustaining the genocidal charges with regard to the crime committed in Khojaly: the clear and convincing proof of the intent to destroy the group in whole or in part; the fact that the destruction that took place in Khojaly was "significant" enough to affect the defined group as a whole; and the crime was committed within a specific geographic locality.

As is known, the present and former presidents of the Republic of Armenia, Serzh Sargsyan and Robert Kocharian, together with other high-ranking political and military officials of that State and leaders of the separatist regime set up by Armenia in the occupied territory of Azerbaijan, personally participated in seizing Azerbaijani lands and in the reprisals against Azerbaijani civilians and prisoners of war. It is clear that, given the scale and gravity of the offences that they committed, the criminal prosecution of all responsible, regardless of their official or political status, must be an inevitable consequence of their crimes.

Impunity still enjoyed in Armenia by the perpetrators of the crimes committed during the conflict, including the glorification of war criminals and raising them to the status of national heroes, continues to impede progress in the conflict settlement process. Therefore, combating impunity is important not only for the purpose of prosecuting crimes and bringing those responsible to justice, the achievement of which is undoubtedly imperative per se, but also to ensure sustainable peace and reconciliation. It is clear that insofar as the Republic of Armenia is unwilling to take the steps necessary to ensure accountability, the international community should play a more proactive role in ending impunity for the crimes committed against the civilian population of Azerbaijan during the conflict. We are confident that the consistent measures being taken at the national and international levels, as well as the existing international legal framework, will serve to bring to justice those responsible.

I should be grateful if you would have the present letter circulated as a document of the General Assembly, under agenda items 34, 38, 65, 67, 69, 77, 85 and 86, and of the Security Council.

(*Signed*) Agshin **Mehdiyev**
Ambassador
Permanent Representative